IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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ORDER

Mahesh Chandra
vs
State of Rajasthan & Ors.

S.B. CIVL WRIT PETIITON NO.2526/1997 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 1st August, 2006

PRESENT
HON'BLE MR.MOHAMMAD RAFIQ,J.

Mr.M.S. Singhvi, Advocate, for the petitioner.
Mr.Rameshwar Dave, Dy. Government Advocate for the respondents.

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BY THE COURT: -

Heard learned counsel for the petitioner as well as learned counsel for the respondents no. 1 to 3. Respondents no. 4 to 6 have however, chosen not to appear despite service of notice.

Both the learned counsel agree that the present matter is squarely covered by the judgment of this Court in Lokesh Kumar Vs. The State of

Rajasthan (S.B. Civil Writ Petition No.1270/1996, decided on 13.10.2004).

The controversy raised in the present matter is that the respondents in giving effect to the notification of the Government dated 24th March, 1995 has mis-interpreted the instructions contained in it. According to this notification, the respondents were required to give 45% reservation to ST and 5% to SC in the scheduled area namely Chittorgarh. It was further directed that remaining 50% vacancies shall be filed up by general candidates. But the respondents in applying the reservation policy contained in the aforesaid notification not only provided reservation to ST and SC candidates, but also ended up giving reservation to general candidates of that District Chittorgarh alone against 50% vacancy. Neither any such intension of the Government is born out from the notification dated 24th March, 1995 nor can any such reservation given to the candidates of general category of a particular district in preference to candidates of general category from other districts. The petitioner has contended that he secured merit

position at S.No.494 whereas the respondent no.4 figured at S.No.608, respondent no.5 figured at S.No.625 and respondent no.6 figured at S.No.631 in the same merit list and yet they were appointed ignoring his claim.

In the aforesaid judgment arising out of a similar controversy appointment given to a candidate having lesser merit was declared illegal and was quashed and it was directed that petitioner was entitled to be considered for appointment as teacher grade-III in his place.

In view of the above, the present writ petition is allowed and the respondents are directed to consider the case of the petitioner for appointment on the post of teacher grade-III in preference to these three candidates and if no vacancy is available with them to continue of any of these three candidates, the respondents shall be at liberty to terminate services of one of them. The petitioner's appointment shall take effect from the date on which such appointment was given to the respondents no. 4 to 6 i.e., on 5.2.1996. He shall be entitled to only notional

benefits. So far as arrears of salary and other monetary benefits are concerned, the petitioner having not actually served, would not be entitled to the same. Compliance of the judgment be made within a period of two months from the date of receipt a copy of this order.

There shall be no order as to costs.

(MOHAMMAD RAFIQ), J.

c.p.goyal/-